IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

WP(C).No. 34831 of 2007(V)

PETITIONER:

M/S.KWALITY POLY PRODUCTS PVT. LTD.,
MARATHAKKARA, OLLUR, TRICHUR DISTRICT-
REPRESENTED BY ITS MANAGING DIRECTOR
SHRI.SONY JOSE.

BY ADV. SRI.C.M.ANDREWS

RESPONDENTS:

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1. THE DIRECTOR OF INDUSTRIES AND COMMERCE
THIRUVANANTHAPURAM.

2. THE COMMERCIAL TAX OFFICER,
IVTH CIRCLE, THRISSUR.

3. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, THIRUVANANTHAPURAM.

4. STATE OF KERALA REPRESENTED BY
CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J

W.P.(C). 34831/2007

Dated this the 26th day of November, 2007

JUDGMENT

Petitioner claims that he is entitled to exemption and that Ext.P2 appeal on this issue is pending consideration of the first respondent. That appeal is directed to be considered as per Ext.P4 judgment in W.A.1411/2007. Peittioner submits that the appeal will be considered only at the State Level Committee to be convened by the first respondent and to its information, this will take place within two months time.

2. In the meanwhile for the assessment in the year 2002-03, Ext.P3 assessment notice was issued and thereafter assessment has been completed as per Ext.P6, rejecting its claim for total exemption basd on Ext.P1 notification. Thereupon the petitioner has filed Ext.P7 appeal and stay petition which are pending consideration of the third respondent. While orders are not passed in the stay petition, Revenue Recovery proceedings have been initiated by Ext.P8 and it is on account of this, that this writ petition has been filed.

3. From the facts as stated above, it is fairly clear that the fate of Ext.P7 appeal will depend upon the outcome of Ext.P2 appeal and therefore, disposal of Ext.P2 appeal would be necessary for consideration of Ext.P7. Be that as it may, presently I am concerned only with Ext.P8 and question is whether at this stage recovery action should be allowed to be continued. Now since Ext.P2 appeal is pending consideration of the first respondent and Ext.P7 is pending consideration of the third respondent, I am inclined to grant a conditional stay of Ext.P8.

4. Accordingly, it is directed that further proceedings pursuant to Ext.P8 shall be deferred on the petitioner remitting a sum of Rs.4,00,000/- (Four Lakhs) within a period of one month from today.

Writ petition is disposed of as above.

ANTONY DOMINIC
Judge

mrcs